

IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT
JODHPUR

ORDER

S.B.CRIMINAL MISC. PETITION NO. 486/2006
(Rajendra Prasad Vs. Smt. Anita & Anr.)

Date of Order : 07/09/2006

PRESENT

HON'BLE MR. JUSTICE H.R.PANWAR

Mr. D.K.Gaur for the petitioner.
Mr. Ashok Upadhyay, public prosecutor.

BY THE COURT:-

By the instant criminal misc. petition under Section 482 Cr.P.C., the petitioner has challenged the order dated 17.2.2006 passed by Additional Sessions Judge No.2, Bikaner (for short 'the revisional court' hereinafter) whereby the revision petition filed by the petitioner against the order dated 24.2.2005 passed by Chief Judicial Magistrate, Bikaner (for short 'the trial court') was dismissed.

By order dated 24.2.2005, the trial court, on an application filed by the non-petitioner No.1 under Section 125 Cr.P.C., granted monthly allowance of maintenance @ Rs.1000/- in favour of the non-petitioner No.1 and against the petitioner with effect from 6.3.1998.

I have heard learned counsel for the petitioner. Carefully gone through the order passed by the trial court as also by the revisional court.

It is contended by learned counsel for the petitioner that a sum of Rs. 58,000/- was given to the non-petitioner as one time settlement and therefore, the non-petitioner is not entitled for the maintenance.

From the perusal of the orders impugned, it does not appear that a sum of Rs. 58,000/- was given as one time settlement, but it appears that the petitioner came with a plea that Rs. 58,000/- stands deposited in the account of the non-petitioner and therefore, the non-petitioner can maintain herself from that amount. Be that as it may. Both the courts below have considered the fact that the non-petitioner is sick and suffering from ailment. She has to undergo the treatment at various places including at Jaipur which is evident from the order of the revisional court and therefore, even if any amount stands in the account of the non-petitioner No.1, it cannot be a ground to deny her maintenance and accordingly the trial court granted maintenance @ Rs. 1000/- per month in favour of non-petitioner No.1. So far as the income of the petitioner is concerned, courts below have considered that the petitioner is having a colour lab

as also STD booth and as such earning Rs.15,000/- to 20,000/- per month. In this view of the matter, a sum of Rs. 1000/- per month granted as maintenance in favour of non-petitioner No.1 cannot be said to be erroneous.

The petition has no force and is therefore, dismissed.

(H.R.PANWAR),J.

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